

Senate Bill No. 1843

CHAPTER 1116

An act to add Sections 1128.1 and 1735.1 to the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor September 29, 1996. Filed
with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1843, Solis. Unemployment compensation.

Existing law provides for various penalties to be imposed on employing units for failing to comply with specified unemployment insurance laws, including a 50% penalty in the case of fraud or intent to evade those laws.

This bill would impose a penalty on an individual or business if the director finds that the individual or business exchanged money on behalf of an employer and the employer used the cash proceeds of the exchange to conceal the payment of wages, as specified. The penalty would be equal to 100% of any assessed contributions that were based on the concealed wages and would only apply when the individual or business knew that the employer intended to avoid the payment of unemployment contributions or taxes.

Existing law provides that any officer, major stockholder, or other person having charge of the affairs of certain employing units shall be personally liable for certain unemployment insurance contributions, withholdings, penalties, and interest, if there is a willful failure to pay, as specified.

This bill would also impose personal liability on individuals or specified persons in charge of the affairs of business entities for certain unemployment insurance contributions, withholdings, penalties, and interest assessed with respect to exchanges of money to conceal payment of wages, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1128.1 is added to the Unemployment Insurance Code, to read:

1128.1. (a) If the director finds that an individual or business entity has exchanged money on behalf of an employer and the employer used the cash proceeds from the exchange to conceal the payment of wages with an intent to evade any provision of this code, the director shall assess a penalty against the individual or business entity in an amount equal to 100 percent of any assessed contributions that were based on the concealed wages. An employing unit subject

to a penalty under Section 1128 shall not be assessed a penalty under this section for the same violation.

(b) For purposes of this section, “business entity” means a partnership, corporation, association, or limited liability company.

(c) The penalty shall apply only when there is evidence that the individual or business entity who exchanged money knew that the employer intended to use the cash proceeds from the exchange to conceal the payment of wages and thereby avoid the payment of contributions or taxes required by this code.

SEC. 2. Section 1735.1 is added to the Unemployment Insurance Code, to read:

1735.1. (a) An individual who has been assessed under the provisions of Section 1128.1, or any officer, major stockholder, or other person having charge of the affairs of a business entity that has been assessed under the provisions of that section, shall be personally liable for the amount of contributions, withholdings, penalties, and interest due and unpaid by the employer, other than those under subdivisions (a) and (b) of Section 1128, for whom money was exchanged as described in Section 1128.1. The director may assess that person for the amount of contributions, withholdings, all penalties other than those under Section 1128, and interest. The provisions of Article 8 (commencing with Section 1126) and Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 shall apply to assessments made pursuant to this section. Sections 1221, 1222, 1223, and 1224 shall apply to assessments made pursuant to this section. With respect to that person, the director shall have all the collection remedies set forth in this chapter.

(b) For purposes of this section, “business entity” means a partnership, corporation, association, or limited liability company.

